HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO. 23524 OF 2006

Between:

Mrs. Malathi Reddy

..... Petitioner

AND

Municipal Corporation of Hyderabad,
Rep. by its Commissioner,
Hyderabad & others

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Shri V.M.M. Chari for Shri S. Niranjan Reddy

Dated: 13.11.2006

Per G.S.SINGHVI, CJ

This is a petition for grant of a declaration that respondent Nos. 1 and 2 are not discharging their duties in accordance with the provisions of the Hyderabad Municipal Corporation Act, 1955 (for short 'the 1955 Act') and are not taking action for demolition of unauthorized deviations and constructions made by respondent No.3 in premises bearing house No.3-6-234 situated at Hotel Minerva lane, Himayatnagar, Hyderabad.

We have heard Shri V.M.M. Chari appearing for Shri S. Niranjan Reddy, learned advocate for the petitioner and perused the record.

The petitioner and her husband claim to have purchased property bearing H.No.3-6-235 situated at Hotel Minerva Lane, Himayathnagar. She, through her Advocate Shri A. Venkatesh, sent notice dated 09.09.2006 to one Deepak Waghrey and respondent No.3 – Vaishnavi Estates complaining of the alleged illegal constructions being raised by them. In reply to that notice, Shri G. Sanjeeva Reddy, Advocate sent reply notice dated 24.09.2006 to the petitioner's counsel not only denying the allegation of illegal and unauthorized construction but also accusing the petitioner of violating the provisions of the 1955 Act. The petitioner's grievance is that despite making of repeated representations to the authorities of the Municipal Corporation of Hyderabad, no action has been taken for stopping the illegal construction being raised by respondent No.4

Learned counsel for the petitioner invited our attention to the photographs produced at page Nos. 23 and 24 of the writ petition and tried to convince us that the construction being raised by respondent No.3 is in violation of the sanctioned plan and the same is going to affect easementary rights of his client, but we have not felt persuaded to entertain the writ petition. Rather, we are convinced that the writ petition is liable to be dismissed because an effective alternative remedy is

available to the petitioner by filing civil suit. The question whether respondent No.3 is raising the disputed construction and that the said construction is contrary to the sanctioned plan or is otherwise affecting the right of the petitioner cannot be decided by this Court in exercise of its power under Article 226 of the Constitution and the only appropriate remedy available to the petitioner is to file civil suit.

For the reason stated above, the writ petition is dismissed leaving the petitioner free to avail remedy by filing civil suit. Needless to say that this observation shall not be construed by the Civil Court as a mandate by this Court for grant of interlocutory or final relief to the petitioner and the concerned Court shall be absolutely free to apply its mind and pass appropriate order in accordance with law.

As a sequel to dismissal of the writ petition, W.P.M.P.No.29985 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

13.11.2006
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